

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

S.S. By and Through her Next Friends
Becky Sartory and Mark Sartory, and
BECKY SARTORY, Individually
MARK SARTORY, Individually,

Plaintiffs,

v.

SAM'S EAST, INC.,

Defendant.

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No. 4:15-CV-637 CAS

ORDER OF REMAND

This matter is before the Court on plaintiffs' Motion to Remand and Alternative Motion for Change of Venue, and defendant Sam's East, Inc.'s Response to the Motion to Remand.

This case was originally filed in the Circuit Court of Jackson County, Missouri on December 13, 2014 and was subsequently transferred to the Circuit Court of St. Louis County, Missouri on February 27, 2015. Defendant removed the case to this Court on April 16, 2014 on the basis of diversity of citizenship, 28 U.S.C. § 1332. Plaintiffs' Motion to Remand was filed on May 13, 2015, less than thirty days following removal.

Plaintiffs move to remand the case to the Circuit Court of St. Louis County, Missouri, on the grounds that (1) the Notice of Removal fails to properly allege defendant's citizenship and therefore does not support the exercise of federal diversity jurisdiction, and (2) the removal was untimely under 28 U.S.C. § 1446(b) and is therefore procedurally defective. Defendant responds that it does not oppose plaintiffs' Motion to Remand.


Based upon defendant's Response, the Court concludes the plaintiffs' Motion to Remand should be granted, and the case will be remanded to the Circuit Court of St. Louis County, Missouri, for lack of subject matter jurisdiction and/or because the removal is procedurally defective. See 28 U.S.C. § 1447(c). Plaintiffs' alternative motion for change of venue will be denied as moot.

Accordingly,

IT IS HEREBY ORDERED that plaintiffs' Motion to Remand is **GRANTED**. [Doc. 15]

IT IS FURTHER ORDERED that plaintiffs' Alternative Motion for Change of Venue is **DENIED as moot**. [Doc. 17]

IT IS FURTHER ORDERED that this case is **REMANDED** to the Circuit Court of St. Louis County, Missouri, from which it was removed, for lack of subject matter jurisdiction and/or because the removal is procedurally defective. See 28 U.S.C. § 1447(c).



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 21st day of May, 2015.